

**REMARKS**

Claims 1-3 are currently pending in the matter of the present application. In a final Office Action having a mailing date of July 12, 2005, the Examiner rejected Claims 1-3. This amendment and response addresses the Examiner's rejections. The Examiner is advised that the Applicant has filed a Request for Continued Examination together with this Amendment and Response.

In the above-referenced final Office Action, the Examiner maintained a 35 U.S.C. §102(b) rejection of Claims 1-3 as being anticipated by U.S. Patent No. 3,999,047 to Green. The Applicant has amended Claims 1-3 to distinguish the claimed present invention over Green. More particularly, the Applicant has added limitations to Claims 1-3 directed to calculating at least one of (a) the volume of the scanned sample, and (b) the absolute particle count. The process in Green is a two dimensional scan only that provides no information on depth (and therefore volume). As a consequence, the process in Green cannot provide absolute cell counts (i.e., cells/volume of blood). Accordingly, for this reason, the Examiner should withdraw the 35 U.S.C. §102(b) rejection of Claims 1-3.

In addition, the Applicant notes that Green generally describes a method and apparatus utilizing color algebra for analyzing scene regions, such as for analysis of blood cells. In the method, first and second scanned signals are produced to generate a differential contrast between two regions in a sample. The signals are combined algebraically with thresholding to classify the sample region into one of a number of categories. In contrast, the method of the present invention is for analyzing a sample to detect particles, and it is noted to the Examiner's attention that "particles" are claimed in each of independent Claims 1-3. In the method, threshold values for the detection of particles are set. Thus, Green does not disclose the use of thresholding to improve the detection of particles in a sample, as claimed. Rather, Green uses thresholding for the different purpose of classifying a sample region into one of a number of categories. Therefore, Green does not anticipate Claims 1-3. Accordingly, the Examiner is requested to

*Application Serial No. 10/771,585*

*Amendment and Response to Office Action of July 12, 2005*

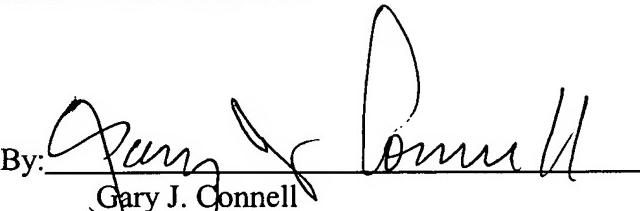
withdraw the rejection under 35 U.S.C. § 102(b).

Based upon the foregoing, the Applicant believes that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

SHERIDAN ROSS P.C.

By:

  
Gary J. Connell

Registration No. 32,020

1560 Broadway, Suite 1200

Denver, Colorado 80202-5141

(303) 863-9700

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